

WINSTON & STRAWN LLP

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHONE
1204 GENEVA, SWITZERLAND

CITY POINT
1 ROPEMAKER STREET
LONDON, EC2Y 9HT

1400 L STREET, N W
WASHINGTON, D C 20005-3502

(202) 371-5700

FACSIMILE (202) 371-5950

www.winston.com

333 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071-1543

200 PARK AVENUE
NEW YORK, NEW YORK 10166-4193

21 AVENUE VICTOR HUGO
75116 PARIS, FRANCE

101 CALIFORNIA STREET
SAN FRANCISCO, CALIFORNIA 94111-5894

TIMOTHY M BROAS

(202) 371-5750

tbroas@winston.com

January 12, 2005

BY FAX AND U.S. MAIL

Mark Gooden, Esquire
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5628 (John Babieracki)

Dear Mr. Gooden:

Winston & Strawn, LLP represents John Babieracki, as reflected in the attached executed Statement of Designation of Counsel. I received your letter bearing a stamped-date of December 22, 2004 and its enclosures, on December 28, 2004.

My client categorically denies the allegation that his alleged actions were "knowing and willful." The evidence you refer to from AMEC reveals that AMEC relied on advice from KPMG, and that the "scheme" was carried out by CEO's and CFO's, titles and positions Mr. Babieracki never held or occupied. Also, the proposed Conciliation Agreement charges Mr. Babieracki with having made \$1,000 in contributions, some of which were reimbursed by AMEC, during the "period from January, 1995 to October 15, 1998" (emphasis added), but you fail to specify when Mr. Babieracki made the contributions nor when he received reimbursement. Moreover, your letter contains no evidence or allegation that Mr. Babieracki, even assuming the allegation concerning his contribution and reimbursement are true, was aware that such conduct was unlawful.

Furthermore, the Commission's action against Mr. Babieracki is time-barred, inasmuch as the alleged contribution and reimbursement were made more than five years ago, and hence are outside of the statute of limitations as set forth in 28 U.S.C. § 2462. *See Federal Election Commission v. Williams*, 104 F.3d 237, 239-40 (9th Cir. 1996), *cert. denied*, 522 U.S. 1015 (1997); *Federal Election Commission v. Christian Coalition*, 965 F. Supp. 66, 69 (D.D.C. 1997); *Federal Election Commission v. National Right to Work Committee, Inc.*, 916 F. Supp. 10, 13 (D.D.C. 1996), *Federal Election Commission v. National Republican Senatorial Committee*, 877 F.Supp. 15 (D.D.C. 1995) (catch-all statute of limitations of § 2462 bars

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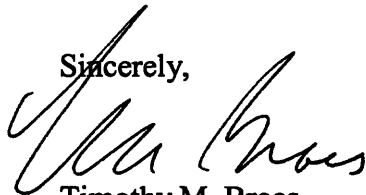
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enforcement actions seeking civil penalties under the Federal Election Campaign Act more than five years after the alleged violation).

If you have any questions or wish to discuss this matter further, please do not hesitate to call me at the above number.

Sincerely,



Timothy M. Broas
Counsel for John Babieracki